

### Remarks

Claims 1, 3-5, 14, 22 and 24-26 have been amended and claims 2 and 23 have been canceled without prejudice. Re-examination and reconsideration of the application, in view of the amendments above and the remarks below, are respectfully requested.

The Office Action objects to the specification, as well as to claims 14-16 and 18 because of certain informalities. In response, the specification and claim 14 have been amended to remedy these defects per the suggestions of the Examiner, and withdrawal of the objections is respectfully requested.

The Office Action rejects claims 1, 6-8, 11, 12, 17, 19, 22, 27, 29, 30, 33, 38 and 40 under 35 U.S.C. §102(b) as being anticipated by Taglieri, U.S. Patent No. 5,677,790. Of these claims, claims 1 and 22 are independent claims. As amended, claim 1 recites a structure having opposite, reflective sides that is adapted to fit within a pocket of a user. Similarly, claim 22 recites the insertion of a reflective structure within a user's pocket. In addition, claim 22 recites that the reflective structure is inserted into the pocket without regard to which side or which end protrudes from the pocket.

Taglieri is directed to a reflective device having a rotatably mounted fastener. The Office Action admits that Taglieri fails to disclose a device that fits in a pocket. Thus, Taglieri fails to teach each and every element of claims 1 and 22, as well as claims 6-8, 11, 12, 17, 19, 27, 29, 30, 33, 38 and 40, which depend therefrom. Consequently, reconsideration and withdrawal of the §102(b) rejection is respectfully requested.

The Office Action also rejects claims 2-5 and 23-26 under 35 U.S.C. §103(a) as being obvious over Taglieri in view of Rass, U.S. Patent No.4,600,269. Rass is directed to a reflective article that may be attached to an object using a clip. The Office Action asserts that it would have been obvious to combine the reflective device of Taglieri with the clip attached to the reflective article of Rass. The clip of the combined device could then presumably fit in and/or protrude from a shirt or pants pocket. Such a combination, however, would still result in a clip that is distinct from (and attached to) the reflective article as disclosed in Rass at column 3, lines 43-44. The asserted combination thus fails to suggest or motivate insertion of the reflective structure, itself, into a pocket of the user as claimed by Applicant.

As such, the asserted combination of the Office Action would be susceptible to the very problems overcome by the present invention. Namely, users would still have to carefully orient reflective faces of the article prior to attaching it with a cumbersome clip. Such attention and effort would dissuade persons from using the asserted combination, and would further render the clip and article vulnerable to breakage as compared to the invention of Applicant. Thus, Applicant respectfully submits that claims 3-5 and 24-26 are non-obvious over Taglieri in view of Rass.

Moreover, there is no motivation or suggestion present within the references to combine Taglieri with Rass. In fact, Taglieri actually teaches away from such a combination on a number of occasions. For instance, Taglieri notes that hook and clip fasteners are unable to attach to certain types of garments (column 1, lines 15-36). Taglieri also lauds benefits of a freely rotatable device that is free from a clip (column 5, lines 17-26). Thus,

Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 3-5 and 24-26.

35 U.S.C. §103(a) and Taglieri also form the basis of rejection for claims 9, 10, 13, 20, 31, 32 and 41. More specifically, the Office Action asserts that it would have been obvious to scale the size of the Taglieri device to the recited dimensions of claims 9, 10, 31 and 32. The Office Action further asserts that such change would be motivated by a desire to increase visibility. Applicant respectfully traverses the assertions, which consist of unfounded assumptions and speculation. In fact, Taglieri actually teaches against the Applicant's claimed dimensions, which could interfere with a Taglieri user's freedom of movement (column 2, lines 3-6).

Similarly, Applicant respectfully submits that the §103(a) rejections of claim 13, 20 and 41 are purely speculative. Applicant thus traverses the unfounded assertions of the Office Action that imply that it would have been obvious to use reflective tape or radiused corners. There is no motivation or suggestion present within Taglieri to provide such features. In addition to the absence of motivation and suggestion within the cited prior art, each of dependent claims 9, 10, 13, 20, 31, 32 and 41 is at least patentable based upon its dependency on a respective, allowable independent claim. Reconsideration and allowance of claims 9, 10, 13, 20, 31, 32 and 41 are therefore respectfully requested.

The Office Action additionally rejects claims 14-16, 18, 21, 34-37 and 39 under 35 U.S.C. §103(a) as being obvious over Taglieri in view of Carlson, U.S. Patent No. 3,950,076. Of these claims, claim 21 is an independent claim. Claim 21 recites a dual sided, reflective structure adapted to removably attach to clothing. The sides of the structure include

three recessed areas and four holes, two holes being positioned between adjacent recessed areas. The recessed areas include reflective tape adhered therein.

Carlson is directed to a safety reflector having interlocking and reflective support members. The Office Action admits that Taglieri fails to have a recessed reflector. In support of the rejection, the Office Action relies on a recessed reflector (12) shown in Fig. 2 of Carlson. Applicant respectfully traverses the rejection, as there is no motivation or suggestion to combine Taglieri and Carlson. In fact, the disparate structure and purpose of the cited prior art references actually teach away from such a combination. For example, Carlson teaches interlocking members that are designed to be difficult to detach. The difficulty to detach prevents theft and other loss (column 4, lines 5-9). This designed difficulty is at odds with the goal of the Taglieri device, which is designed for ease of detachment (column 1, lines 64-67). Thus, the prior art references actually provide motivation against, and dissuade, combination.

Moreover, the Office Action relies on speculation when asserting that the other claimed features of claim 21 are obvious over Taglieri in view of Carlson. For instance, there exists no motivation or suggestion within the cited prior art to include three recessed areas. Applicant thus traverses any assertion that the inclusion of such recessed areas would be obvious to one of skill in the art. Similarly, Applicant traverses the assertion of the Office Action that one of skill in the art would include four holes, two holes being between adjacent recessed areas. Such an assertion is speculative and unsupported by any suggestion or motivation in Taglieri or Carlson. Finally with regard to claim 21, Applicant traverses the assertion of the Office Action that it would have been obvious to use reflective tape. Such an assertion is speculative and unsupported by the disclosures of the cited prior art. Claim 21 is

therefore non-obvious over Taglieri in view of Carlson. Reconsideration and allowance of claim 21 are therefore respectfully requested.

Applicant respectfully traverses the rejections of dependent claims 14-16, 18, 34-37 and 39 based in part upon their dependency on respective, allowable independent claims. Moreover, each of these dependent claims includes at least one additional feature, and thereby distinguishes over a combination of Taglieri and Carlson. For instance, no combination of Taglieri and Carlson motivates or suggests a structure adapted to fit in a pocket as imputed into each of the dependent claims. As discussed above in connection with claim 21, there further exists no motivation to combine Taglieri with Carlson. As such, there is exists no motivation to include a recessed area within the article of Taglieri as asserted in the Office Action with regard to claims 14, 34 and 37.

With particular regard to claims 15 and 35, Applicant respectfully traverses any assertion that it would have been obvious to determine the dimensions of the recesses of Applicant's invention. The claimed dimensions of claims 15 and 35 have been optimized to solve potential problems associated with inserting the structure into a pocket. As discussed above, assertions with regard to dependent claims 14, 15, 16, 18, 34-37 and 39 that it would have been obvious to include three recessed areas, apertures and reflective tape are speculative and devoid of motivation or suggestion from Taglieri and Carlson. For these reasons, the combination of Taglieri and Carlson fails to suggest or motivate features as recited in dependent claims 14-16, 18, 34-37 and 39, and the §103(a) rejection should also be withdrawn.

Finally, the Office Action rejected claim 28 under 35 U.S.C. §103(a) as being obvious over Taglieri in view of Sullivan, U.S. Patent No.4,443,056. Sullivan discloses a pair

of stitched, reflective strips. Claim 28 depends on independent claim 22, which recites insertion of a dual sided reflective structure within a pocket. There is no motivation or suggestion within a combination of Taglieri and Sullivan to have a structure that fits within a pocket. Moreover, there is no motivation to combine Taglieri and Sullivan. In fact, Taglieri teaches against the fasteners of Sullivan (and the combination) at column 1, lines 15-36.

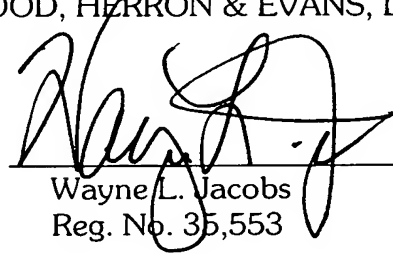
Thus, reconsideration and withdrawal of the §103(a) rejection are respectfully requested.

In view of the above, it is submitted that claims 1, 3-22 and 24-41 are in a condition for allowance. Re-examination of the application is respectfully requested, and an early Notice of Allowance is earnestly solicited.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By:



Wayne L. Jacobs  
Reg. No. 35,553

2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202  
Phone: (513) 241-2324  
Fax: (513) 421-7269